

REMARKS

This communication is a full and timely response to the Office Action dated February 24, 2009. Claims 1-12 remain pending, where claims 8-12 are withdrawn from consideration. By this communication, claims 1-7 are amended. Support for the amended subject matter can be found, for example, in paragraphs [0019] - [0021] and [0033] of the disclosure.

Applicants appreciate the granting of an interview by the Examiner on June 17, 2009. During the interview, Applicants' representative and the Examiner discussed the Examiner's interpretation of the claims and the teachings of the applied patents. No agreement was reached, however, this response is based on the dialogue between the two parties.

Claims 1-7 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Baird* (U.S. Patent No. 7,062,262) in view of *Stamm et al* (U.S. Patent No. 6,705,523). Applicants respectfully traverse this rejection.

Claims 1-7 broadly encompass the features illustrated in Figures 1-4. In particular, claim 1 recites the following:

A method of tracking materials in a plant that produces liquid foods, comprising:
allocating a unit identity to production units in the plant, the unit identity is registered and identifies the production unit as one of a source and a destination of material during production of the liquid food in the plant;
allocating a first work identity to a material quantity of the material in the production;
registering the first work identity;
registering events in the plant with the first work identity of the material quantity of the material wherein the event identifies a transport of at least a portion of the material quantity from a source production unit in the plant with reference to the unit identity allocated to the source production unit in the plant and/or to a destination production unit in the plant with reference to the unit identity allocated to the destination production unit in the plant; and
displaying data associated with at least one event of a specific point in time based on the unit identity of a production unit and the first work identity of the material quantity.

The combination of the *Baird* and *Stamm* patents fail to disclose or suggest the combination features recited in claim 1 as alleged.

As stated in a previous response, the *Baird* patent is directed to a production chain element tracking apparatus that tracks the production of a product from its raw materials into a product ready for consumer consumption. See column 5, lines 13-40. In this process, containers that store input ingredients have bar codes that are scanned and stored in a central processor. A customer may obtain information regarding a food chain extending to and/or from a particular product by submitting a query over a network. In this manner, a process can be identified in which a particular ingredient was used.

The *Baird* patent, however, fails to disclose or suggest, registering events in the plant as recited in Applicants' claim.

Rather, the *Baird* patent discloses that a process is "anything which changes the composition incorporating the material(s) in question," and "shipping material from one location to another or storing material for a period of time are not processes." See Baird, paragraph bridging columns 1 and 2.

Because this reference disclose that shipping material from one location to another (i.e. transporting) is not a process, it thus does not track the shipping of materials from one location to another even if the shipping occurs within the confines of the plant. Accordingly, the *Baird* patent cannot possibly disclose or suggest, "registering events in the plant with the first work identity of a material quantity of a product, wherein the event identifies **a transport of at least a portion of the material quantity from a source production unit in the plant** with reference to the unit identity allocated to the source production unit and/or to a destination production unit in the plant with reference to the unit identity allocated to the destination production unit," as recited in Applicants' claim 1.

The *Stamm* patent discloses a technique related to delivering supplies to a production line. In other words, the *Stamm* patent discloses a process that tracks the transport or shipping of materials **to a production line** as opposed to tracking the transport of materials within a production line. Thus, the method as described in the *Stamm* patent appears to be executed prior to the production of a product using the techniques described in the *Baird* patent. Thus, even if these two patents were combined as alleged, the features resulting from the combination would not render Applicants claims as obvious.

In summary, the *Baird* and *Stamm* patents when applied individually or collectively as alleged by the Examiner fail to disclose every feature and/or the combination of features recited in Applicants' claims. Accordingly, a *prima facie* case of obviousness has not been established.

The Examiner is reminded that the Office has the initial burden of establishing a **factual basis** to support the legal conclusion of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). For rejections under 35 U.S.C. § 103(a) based upon a combination of prior art elements, in KSR Int'l v. Teleflex Inc., 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007), the Supreme Court stated that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some **articulated reasoning with some rational underpinning** to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) (emphasis

added). For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

Conclusion

Based on the foregoing amendments and remarks, Applicants respectfully submit that claims 1-7 are allowable and this application is in condition for allowance. In the event any unresolved issues remain, the Examiner is invited to contact Applicants representative identified below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 18, 2009 By: /Shawn B. Cage/
Shawn B. Cage
Registration No. 51522

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620